

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

26207

FILE: B-212037.3

DATE: September 13, 1983

MATTER OF: Putnam Mills Corporation

DIGEST:

Protest to GAO filed more than 10 days after protester's receipt of notification that its bid was rejected as nonresponsive and notification of award is untimely and not for consideration. Even though the protest was submitted to GAO by certified mail, we will not consider it as an exception to our general rule since the certified letter was not mailed not later than the fifth day prior to the final date for timely filing of a protest with GAO.

Putnam Mills Corporation (Putnam) protests the Defense Logistics Agency's rejection of its bid, submitted pursuant to invitation for bids (IFB) NO. DLA100-83-B-0648, as nonresponsive.

We dismiss the protest as untimely filed with our Office.

Putnam advises that on July 21, 1983, it was orally advised that its bid was rejected as nonresponsive and that H. Landau was awarded a contract. Written notification of this was received by Putnam on August 1, 1983. Putnam submits that at that time it was made aware of the reason why its bid was considered nonresponsive. Putnam then protested to our Office by a certified letter, which was mailed on August 15 and received on August 18.

Our Bid Protest Procedures (Procedures) require that "protests shall be filed [with our Office] not later than 10 [working] days after the basis for protest is known or should have been known, whichever is earlier." 4 C.F.R. § 21.2(c) (1983). Accepting Putnam's recitation of the facts, Putnam first became aware of the reason for the rejection of its bid and award to H. Landau on August 1. As noted above, Putnam's protest was not received by our Office

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until August 18 which was 13 days after it knew the basis for protest. Therefore, Putnam's protest was not filed with (received by) our Office within the prescribed time period.

While our Procedures permit consideration of a late-filed protest where the protest is submitted to our Office by a certified letter mailed not later than the fifth day prior to the final date for a timely filing of a protest with our Office, 4 C.F.R. § 21.2(b)(3) (1983), this exception to the general rule is not for application here. In order to be timely, the protest should have been received by our Office on August 15. Putnam mailed its protest by certified mail on August 15, less than 5 days prior to that date.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel